

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
STATESBORO DIVISION

FILED  
U.S. DIST. COURT  
BRUNSWICK DIV.

JAMES SCOTT MURPHY,

2005 MAY -4 A 8:23

Plaintiff,

CLERK *[Signature]*

vs.

CIVIL ACTION NO.: CV604-050

JIMMY H. KENNEDY, Librarian,  
Georgia State Prison,

Defendant.

O R D E R

Plaintiff has filed a Motion to Compel responses to interrogatories and production of documents. (Doc. 32.) Defendant has filed a response to the motion. Plaintiff states that on August 23, 2004, he served his discovery requests upon the Defendant by certified mail, and that Defendant has failed to file any responses thereto. Plaintiff states that "in accordance to Local Rule 26.1(a), (he) has (45) days after the filing of a motion to dismiss, to initiate discovery." Plaintiff has misinterpreted Local Rule 26.1(a). The language of that rule applies to the conference between counsel in preparation of the Rule 26(f) report. Defendant asserts, inter alia, that although he has made an appearance in this case by filing a pre-answer motion to dismiss, that discovery responses are not yet due. In this regard, Defendant's assertions are correct. Plaintiff's Motion to Compel is **DENIED**.

SO ORDERED, this 4<sup>th</sup> day of May, 2005.

  
JAMES E. GRAHAM  
UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT  
Southern District of Georgia

Case Number: . 6:04-cv-00050  
Date Served: May 4, 2005  
Served By:

Attorneys Served:

James Scott Murphy  
Devon Orland, Esq.  
John C. Jones, Esq.

Copy placed in Minutes  
 Copy given to Judge  
 Copy given to Magistrate